

## REMARKS

According to the Office Action, dated August 24, 2005, claims 1-13, 16-20, and 22-27 are pending in the Application. These claims were rejected and objected to on various grounds: double patenting, antecedent basis, written description, obviousness, etc. The Applicants address the Examiner's contentions in the order they appear in the Office Action.

### *Double Patenting*

For remarks regarding the double patenting rejections, please see below—the section responding to the 35 U.S.C. § 103(a) rejections.

### *Claim Objections – Antecedent Basis*

Claims 2-13, 17-20, and 23-27 were objected to because of (antecedent basis) informalities. The claims were appropriately amended per the Examiner's suggestions.

### *Claim Objections – 35 U.S.C. § 132*

Claims 1, 16, and 22 were objected to because of the introduction of the word “among” in the following context: “dependency information among applications” (claim 1) (Examiner's emphasis) and “dependencies among applications” (claim 16 and 22) (Examiner's emphasis) (Office Action, p. 7).

Applicants disagree that these limitations introduce new matter. Support for them can be expressly found in the Specification:

Thus, the present invention can be utilized in a computer network environment having client computers for accessing and interacting with the network and a server computer for interacting with client computers. As mentioned previously, in accordance with the present invention, an API protocol is used in connection with communications of application *dependency information among one or more of applications* (or other objects), a common software agent, the registry, a storage component and a service. This API can be implemented with a variety of network or system architectures, and thus should not be limited to the example shown and described.

(Specification, p. 11, ll. 21-28). Applicants respectfully ask the Examiner to withdraw these objections.

***Claim Rejections – 35 U.S.C. § 112, ¶ 1***

Claims 1, 16, and 22 were rejected as allegedly failing to comply with the written description requirement. The Examiner stated that “[t]he specification does not contain subject matter to implement limitations, ‘dependency information among applications’ ... [and] ‘dependencies among applications’” (Office Action, pp. 7-8) (Examiner’s emphasis).

Again, Applicants respectfully disagree in view of the passage cited directly above that describes “an API protocol is used in connection with communications of application *dependency information among one or more of applications* (or other objects)....” *Id.* It appears that the Examiner was looking at p. 7, ll. 10-26 of the Specification (Office Action, p. 7-8), while the above limitations are described at least on p. 11, ll. 21-28. The Applicants respectfully ask the Examiner to withdraw these limitations.

***Claim Rejections – 35 U.S.C. § 112, ¶ 2***

Claims 1, 9, 11, 12, 16, 17, 22, 23, and 26 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter. The Applicants have addressed each of the Examiner’s points. Please see pp. 2-5 of the Response. Moreover, the rejection of claim 17 is moot in view of the amendment of claim 16.

***Claim Rejections – 35 U.S.C. § 103(a)***

Claims 1-9, 12, 13, 16-20, and 22-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,870,763 (Lomet et al.) in view of U.S. Patent No. 5,920,873 (Van Huben et al.) with teachings of U.S. Patent No. 5,938,775 (Damani et al.). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lomet et al., Van Huben et al., Damani in view of Official Notice. Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lomet et al., Van Huben et al., Damani in view of U.S. Patent No. 6,513,019 (Lewis).

Claims 1, 16, and 22 are the independent claims. Claim 1, for example, recites:

A method for utilizing applications’ state dependency information to efficiently perform a backup service operation in a computer system, comprising the acts of:  
*registering applications loaded in said computer system with an application dependency application programming interface (API) for communications of application’s state dependency information among applications, a common software*

*agent, a storage component utilized by said agent and a backup service;*  
storing in said storage component at least one application's state dependency  
information; and  
communicating said at least one application's state dependency information  
from said storage component to said backup service.

(emphasis added). From the first element above, it is clear that the API is configured to perform "registering applications loaded in said computer system" and its utilized "for communications of application's state dependency information among applications." Claims 16 and 22 also recite additional aspects of the API: "wherein said API enables an agent to collect, store and package information about state dependencies among applications in response to a request by a service" (claim 16); and "an agent that functions according to communication protocols of an application programming interface (API) in said system for processing said dependency information" (claim 22).

Thus, the recited API is configured to (1) perform registering applications loaded in a computer system, and it is utilized for communications of application's state dependency information among applications, (2) enable an agent to collect, store, and package information about state dependencies among applications, and (3) maintain communications protocols to which the agent accords to. Applicants submit that such an API cannot be found in the cited art.

At the outset, the Examiner has stated that "Lomet [U.S. Patent No. 5,870,763] does not ... mention about usage of applications programming interface (API)" (Office Action, p. 11). Incidentally, with regard to all the Lomet et al. references that are cited for double patenting purposes, U.S. Patent Nos. 5,946,698, 5,870,763, 6,067,550, and 6,151,607, the Examiner submits that APIs are not disclosed (see Office Action, pp. 3, 4, 4-5, and 5, respectively).

Instead, Van Huben et al. is cited for such an API disclosure in all the above mentioned instances. Applicants respectfully disagree. Van Huben et al. makes several references to APIs throughout its extensive disclosure, but none of the APIs come close in describing the kind of API that is recited. For example, Van Huben et al. makes reference to an API for point tools to create a BOM listing and pass it into the DCS (col. 19, ll. 37-39), or an API that requires an LP author to return a zero completion code from the foreground portion of a DILP if information is successfully gathered (col. 108, ll. 22-24), etc.

(Incidentally, the Applicants respectfully request that the Examiner cite column numbers and line numbers, not paragraph numbers, e.g. paragraph 787, since the Applicants have access to the published patent which employs the former format, and may not have access to the file wrapper or originally filed application which employs the latter format).

In short, Van Huben et al., despite its mention of certain kinds of APIs, does not disclose the *kinds of* APIs that are recited in claims 1, 16, and 22: APIs configured to (1) perform registering applications loaded in a computer system, and utilization for communications of application's state dependency information among applications, (2) enablement of an agent to collect, store, and package information about state dependencies among applications, and (3) maintenance of communications protocols to which the agent accords to.

None of the other references, Damani et al. or Lewis, or the Official Notice are cited for disclosing such APIs, and none of the references disclose such recited APIs. Therefore, the independent claims patentably define over the cited art either for nonobviousness rejection purposes or double patenting rejection purposes.

Dependent claims 2-13, 17-20, and 23-27, depend either directly or indirectly from independent claims 1, 16, and 22, respectively, and are therefore deemed patentable for similar reasons.

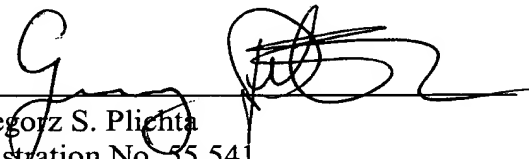
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**PATENT**

### **CONCLUSION**

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Office Action, and submits that Claims 1-13, 16-20, and 22-27 pending in the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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